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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,570	10/26/2001	Tyler Tierney	27734/92540	4128
MERONI & MI	7590 07/09/200 ERONI. P.C.	EXAMINER		
P. O. BOX 309	ŕ	VANAMAN, FRANK BENNETT		
BARRINGTON, IL 60011			ART UNIT	PAPER NUMBER
			3618	
			NOTIFICATION DATE	DELIVERY MODE
			07/09/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)	
10/039,570	TIERNEY ET AL.	
Examiner	Art Unit	
Frank B. Vanaman	3618	

NOTICE OF APPEAL 2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (e)), to avoid dismissal of the appeal. Since a Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They raise the issue of new matter (see NOTE below); (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 1. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s):		
1. ☑ The reply was filled after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid beandomment of this application, applicant must intelly file one of the following replies: (1) an amondment, affidativ, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31: or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following gring reproduces: a) □ The period for reply expires on: (1) the mailing date of the final rejection. b) ☑ The period for reply expires on: (1) the mailing date of the final rejection, whichever is later. In no ever, the two the statutory period for reply expires on: (1) the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS for The FIRAL REJECTION. See MFEP 708.07(1). Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRAL REJECTION. See MFEP 708.07(1). Examiners of sime may be obtained under 37 CFR 1.138(a). The date on which the petition under 37 CFR 1.138(a) and the appropriate extension fee under 37 CFR 1.138(a) is calculated from: (1) the expiration date of the shortened structure prior for reply originally set in the final Office action; (c) as any reduce any examed patent term adjustment. See 37 CFR 1.70(b). SOTICE OF APPEAL 2. □ The Notice of Appeal was filed on □ A brief in compliance with 37 CFR 41.37 (e)), to avoid dismissal of the date of filing the Notice of Appeal was been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). MENDMENTS □ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise the issue of new matter (see NOTE below); (b) ☐ They raise	The MAILING DATE of this communication appears on the cover sheet with	the correspondence address
application, applicant must timely life one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 1.114. The reply must be filled within one of the following time periods: a) The period for reply expresmonths from the mailing date of the final rejection, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expires and the state of the final rejection, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expires and state of the final rejection. Examiner Note: If Dox 11 is checked, check either box (a) or (6), ONITV CHECK DX (b) WHAN THE FIRST REPLY ASF ILLED WITHIN TWO MONTHS for THE FIRAL REJECTION. See IMPEP 706.07(0). Extensions of time may be obtained under 37 CFR 1.136(a) and the appropriate extension fee insections in the may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee insections in the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee insections in the state of the	THE REPLY FILED <u>23 June 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FO	OR ALLOWANCE.
a)	application, applicant must timely file one of the following replies: (1) an amendment, aff application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be	fidavit, or other evidence, which places the ance with 37 CFR 41.31; or (3) a Request
nave been flied is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory pend for reply originally set in the final Office action, or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL 2. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (m), to avoid dismissal of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). **MENDMENTS** 3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise the issue of new matter (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: **See Continuation Sheet** (See 37 CFR 1.116 and 41.33(a)). 4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. Applicant's reply has overcome the following rejection(s):	a) The period for reply expiresmonths from the mailing date of the final rejection. b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set no event, however, will the statutory period for reply expire later than SIX MONTHS from the r Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN	nailing date of the final rejection.
filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. Applicant's reply has overcome the following rejection(s): 6. Applicant's reply has overcome the following rejection(s): 7. Wenty proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). 7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) allowed: Claim(s) objected to: Claim(s) objected to: Claim(s) objected to: Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 3. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 3. The affidavit or other evidence filed a	have been filed is the date for purposes of determining the period of extension and the corresponding amunder 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply	nount of the fee. The appropriate extension fee y originally set in the final Office action; or (2) as
3.	filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e Notice of Appeal has been filed, any reply must be filed within the time period set forth in	e)), to avoid dismissal of the appeal. Since a
appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 1. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 3. Applicant's reply has overcome the following rejection(s):	3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a language (a) They raise new issues that would require further consideration and/or search (see (b) They raise the issue of new matter (see NOTE below);	NOTE below);
5. Applicant's reply has overcome the following rejection(s):	appeal; and/or (d) They present additional claims without canceling a corresponding number of finall NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).	ly rejected claims.
7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) objected to: Claim(s) vibrdrawn from consideration: Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 3. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). D. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). /Frank B Vanaman/	 5. Applicant's reply has overcome the following rejection(s): 6. Newly proposed or amended claim(s) would be allowable if submitted in a separ 	
3. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 3. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. ☐ Note the attached Information <i>Disclosure Statement</i> (s). (PTO/SB/08) Paper No(s)	7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: Claim(s) objected to: Claim(s) rejected: 1-14,17 and 19-26. Claim(s) withdrawn from consideration:	will be entered and an explanation of
because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 3. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 13. Other: See Continuation Sheet.	AFFIDAVIT OR OTHER EVIDENCE	
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	12. ☐ Note the attached Information <i>Disclosure Statement</i> (s). (PTO/SB/08) Paper No(s)13. ☑ Other: See Continuation Sheet.	

Continuation of 3. NOTE: the numerous proposed amendments to the claims would require substantial further consideration and would not be entered at this time. Additionally, in that the proposed changes constitute the presentation of claims of a substantially different scope from that which has been prosecuted to date, and thus lack a clear prosecution history, such proposed changes would not place the application in better form for an appeal.

Continuation of 13. Other: The proposed amendment to claims 10 and 12, correcting the informality noted in the "Claim Objections" section of the Final Office Action would overcome the objections.